

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of)	
Bartholomew J. Frazzitta, et al.)	Art Unit 2613
)	
Serial No.: 08/889,033)	
)	Patent Examiner
Filed: July 7, 1997)	Tung Vo
)	
Title: Transaction System)	

Board of Patent Appeals and Interferences
Commissioner for Patents
Washington, D.C. 20231

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 BOARD OF PATENT APPEALS
 AND INTERFERENCES

Sir:

The following dates and papers are associated with this application:

1. 07/17/00 Final Rejection
2. 08/04/00 Request for Withdrawal of Premature Final Rejection
3. 10/05/00 Notice of Appeal
4. 01/03/01 Appeal Brief
5. 05/07/01 Final Rejection
6. 05/21/01 Petition that an Examiner's Answer (Action dated 05/07/01) contained an impermissible new ground of rejection (and a Premature Final Rejection)

The Office Action ("Action") dated 05/07/01 was viewed by Appellants as an Examiner's Answer. The Action did not refer to any other paper except the Appeal Brief. Since prosecution had not been reopened, then the response by the Office to the Appeal Brief must be treated as an Examiner's Answer. Appellants' previously filed Appeal and Appeal Brief remain in effect. Attached herewith is a Reply Brief in response to the Examiner's Answer (i.e., the Action dated 05/07/01).

As of the writing of this Reply Brief, Appellants have not yet received a response by the Office in regard to their Request for Withdrawal of Premature Final Rejection (dated 08/04/00). Nor have Appellants received a response by the Office in regard to their Petition (dated 05/21/01) that the Examiner's Answer (Action dated 05/07/01) contained an impermissible new ground of rejection (and a premature final rejection). Appellants reserve all rights regarding the Office's responses to the Request and the Petition, including the filing of a Supplemental Reply Brief.

Should both the Request and the Petition be denied, then Appellants respectfully request that the attached Reply Brief be treated as a response to the final rejection dated 05/07/01.

REPLY BRIEF OF APPELLANT PURSUANT TO 37 C.F.R. § 1.193

The Appellants hereby submit their Reply Brief pursuant to 37 C.F.R. § 1.193, in triplicate, concerning the above-referenced Application.

The Appeal Brief filed January 3, 2001 is herein incorporated by reference as if fully rewritten herein.

Page 2 of the Action (Office Action dated 05/07/01) alleges that Bustos shows customer stations. The Appellants disagree. Appellants' Brief explains why Bustos does not teach a customer station, and also why it would not have been obvious to have modified Casale with a customer station. For example, in regard to claim 1, note Brief pages 14-29. As discussed in more detail therein, Bustos is not capable of selectively moving a canister with a transaction item from a customer station to an SP station.

In the paragraph bridging pages 2 and 3 the Action alleges that McClure teaches a frame, cover, door frame, hinge, subframe, and shelf. The previous Action dated July 17, 2000 indicated that the combination of Casale and Bustos failed to teach these features. Appellants' Brief explains why McClure does not teach the features, and also why it would not have been obvious to have modified Casale/Bustos with the features.

On page 3 the Action further alleges that McClure is relied upon to teach a cover including at least one storage location, a video switching device, and a video material presenting device. Again, Appellants' Brief explains why McClure does not teach the features, and also why it would not have been obvious to have modified Casale/Bustos with the features.

On page 4 the Action further alleges that Casale at col. 2, lines 27-56 teaches a video switching device that is operative to selectively connect a customer visual display to either a video material presenting device or an SP CCTV camera. However, the cited section of Casale does not teach the features. The cited section does not relate to a video switching device or to selectively connecting a customer visual display to a video material presenting device. Additionally, it is noted that page 3 of the Action indicates that McClure (not Casale) is relied upon to teach a video switching device.

Furthermore, the Action's allegations (with which Appellants disagree) on page 8 that the listed features of claims 5-11, 14-16, 20-23, 28, and 43-46 are "notoriously well known in the art as design choice" cannot be used as the sole basis for an obviousness type of rejection. With the Office's reasoning very few patents would be granted. The Action has not presented any evidence that the listed features and the manners of operation and relationships recited are known in the prior art. Appellants request (and were entitled to a previous showing of) evidence of the listed features in the manners and relationships recited. The Action is not in compliance with MPEP § 2144.03. The Action's basis for rejection is viewed by Appellants as an admission that the rejection is based on hindsight reconstruction of Appellants' claimed invention, which is impermissible.

Conclusion

Each of the pending claims specifically recites features, relationships, or steps that are neither disclosed nor suggested in any of the applied art. Furthermore, the applied art is devoid of any such teaching, suggestion, or motivation for combining features of the applied art so as to

produce Appellant' invention. For these reasons it is respectfully submitted that all the pending claims are allowable.

Respectfully submitted,



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July 3, 2001

Board of Patent Appeals and Interferences
Commissioner for Patents
Washington, D.C. 20231


Re: Serial No.: 08/889,033
Applicants: Frazzitta, et al.
For: Transaction System
Docket No.: D-1083

Sir:

Please find enclosed in triplicate, Applicants' Reply Brief to the Examiner's Answer for filing in the above-referenced case.

It is believed that no fees are due. However, if a fee or petition is required please consider this letter a petition therefore and an authorization to charge any associated fee to deposit account 04-1077.

Very truly yours,

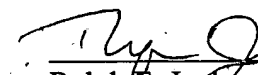

Ralph E. Jocke

REJ/dak

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I hereby certify that this document and the documents indicated as enclosed herewith are being deposited with the U.S. Postal Service as Express Mail Post Office to addressee in an envelope addressed to Board of Patent Appeals and Interferences, Commissioner for Patents, Washington D.C. 20231 this 3rd day of July 2001.

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